

ADMINISTRATIVE PANEL DECISION

Lululemon Athletica Canada Inc. v. Christian Dalzell
Case No. DIE2022-0001

1. The Parties

The Complainant is Lululemon Athletica Canada Inc., Canada, represented by Mason Hayes & Curran LLP, Ireland.

The Registrant is Christian Dalzell, Ireland.

2. The Domain Name and Registrar

The disputed domain name <lululemon.ie> is registered with IE Domain Registry Limited (“IEDR”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 16, 2022, via email. On May 16, 2022, the Center transmitted by email to IEDR a request for registrar verification in connection with the disputed domain name. On May 16, 2022, IEDR transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Registrant and contact information in the Complaint. The Center sent an email communication to the Complainant on May 27, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 27, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .IE Dispute Resolution Policy (the “IEDR Policy”), the WIPO Dispute Resolution Rules of Procedure for .IE Domain Name Registrations (the “Rules”), and the WIPO Supplemental Rules for .IE Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2.1 and 4.1, the Center formally notified the Registrant of the Complaint, and the proceeding commenced on June 2, 2022. In accordance with the Rules, paragraph 5.1, the due date for Response was July 1, 2022. The Response was filed with the Center on July 1, 2022.

The Center appointed Adam Taylor as the sole panelist in this matter on July 8, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant, which was founded in 1998, supplies yoga-inspired athletic apparel under the mark LULULEMON.

The Complainant sells its products exclusively through over 550 retail and outlet stores worldwide, including in Ireland, through websites at “www.shop.lululemon.com”, and, in Ireland, at “www.eu.lululemon.com/en-lu/home”, and through strategic partners such as yoga studios, gyms, and wellness centres.

The Complainant opened a shop on Grafton Street in Dublin in 2021. Before that, it operated a concession within Brown Thomas, a Dublin high-end retail outlet.

The Complainant owns many registered trade marks for LULULEMON, including

- European Union trade mark no. 002304848, filed on July 5, 2001, registered on November 12, 2002, in classes 18, 25, and 27;
- International trade marks (designating the Republic of Ireland amongst others) nos. 1086102 and 1142267, registered on June 29, 2011, and November 8, 2012, in classes 35 and 25, respectively.

The disputed domain name was registered on August 13, 2013.

In a letter (undated) sent by the Registrant in response to an email from the Registrant’s domain name provider dated August 13, 2013, enquiring about his purpose in registering disputed domain name (*i.e.*, in connection with the .IE domain registration requirements), the Registrant stated that he wanted to use the disputed domain name for a semi-private, invitation-only, “personal hobby blog” about his travels, cooking and other activities and adventures. He said his connection with the disputed domain name arose from a family friend called Lulu who had an “amazing” lemon tree, which she allegedly used to make a range of lemon-related products. The Registrant said that he wanted to name his blog in memory of the good times represented by Lulu and her lemons. The Registrant included a proposed logo, namely an image of a lemon with a “Lulu’s Lemons” banner superimposed.

As of December 6, 2021, the disputed domain name was used for a website with the above-mentioned Lulu’s Lemons logo together with the words “Members Only” plus the email address “info@lululemon.ie”.

At some point after December 6, 2021, the following text was added to the home page of the website: “We are not an Apparel Company. We do not sell athletic apparel. [P]lease do not email us about sales. We recommend www.underarmour.com or www.Nike.com for your apparel needs.”

The following communications took place by email and phone between December 10, 2021, and January 14, 2022:

- The Complainant’s agent approached the Registrant through the Registrar enquiring about potential acquisition of the disputed domain name on behalf of its undisclosed client.
- The Registrant initially stated that the disputed domain name had not been listed for sale and that he did not have a price in mind. He said that the disputed domain name was being used for a private members club. He asked for information about the price and enquired about the timeline, referring to the equivalent of an annual general meeting due to be held in February.
- The agent put forward an offer of USD 2,275. The Registrant indicated that this would probably not be acceptable and referred to the inconvenience factor given that some 900 to 1,110 members were using the site. The Registrant said that, based on research into pricing for other premium .IE domain names, he was thinking of a price in the region of USD 3,000 to USD 5,000.
- The Registrant emailed to check that the Complainant’s offer was USD 2,750, which the agent confirmed.
- The Registrant emailed that he and his partners would accept USD 50,000 subject to confirmation from their IT company about the costs of migration and to take account of inconvenience costs to, and loss

of, members, as well as re-branding costs.

- The agent emailed that they couldn't verify the details about IT updates etc. to justify the Registrant's asking price, but counter offered USD 5,000, which the agent said was more in line with what the Registrant had originally mentioned.
- The Registrant emailed to decline the Complainant's offer.

5. Parties' Contentions

A. Complainant

The following is a summary of the Complainant's contentions.

As a result of the Complainant's extensive marketing and promotion, including in Ireland, the Complainant's trade mark has become a well-known and a strong and distinctive indicator of the source of the Complainant's products. The Complainant has acquired common law rights in Ireland in its mark.

The Complainant's mark has been frequently referred to in well-known publications, including in Ireland.

The disputed domain name is identical to the Complainant's registered and unregistered trade marks for LULULEMON.

The Registrant lacks rights in law or legitimate interests in the disputed domain name.

So far as the Complainant can tell, the Registrant is not offering any goods or services under the marks LULULEMON or <lululemon.ie> and has not sought to register these terms as trade marks or business names.

There is no evidence that the Registrant is making *bona fide* use, or demonstrable preparations to use, the disputed domain name in connection with an offering of goods or services, or operation of a business. The Registrant's diversion of the Complainant's customers to other apparel companies indicates that the Registrant's website is a sham. There is no evidence that the disputed domain name is being used for a private members club with some 900 to 1,100 members. The email address shown on the homepage does not work and the website contains no contact information or access links.

Even if the Registrant's business is *bona fide*, there is no conceivable reason why the Registrant would require the disputed domain name for that business.

The Complainant cannot find any reference to a business called "Lulu's Lemons" on Google or when searching the Irish company registration office searches. Nor has the Complainant found any registered business name or trade mark relating to this name.

The Complainant does not believe that the disputed domain name corresponds to the Registrant's personal name or pseudonym. Nor does the disputed domain name reflect a geographical indication.

The Registrant's efforts to attract users to its website through confusion with the Complainant's marks obviates the possibility of any *bona fide* offering, as does the significant degree of renown of the Complainant's marks in Ireland.

The disputed domain name was registered or is subsequently being used in bad faith.

It is clear that the Registrant was well aware of the Complainant's reputation at the time of registering the disputed domain name, given the Complainant's fame in Ireland and the fact that Registrant registered the disputed domain name as an Irish citizen and/or resident under the connection to Ireland requirements for .IE domain names. No company or business name has been registered that corresponds to the disputed

domain name. It is unlikely that the Registrant chose the disputed domain name independently of the Complainant's mark.

The Registrant has registered and/or is using the disputed domain name primarily to prevent the Complainant from reflecting its mark in a corresponding domain name.

The Registrant has set out to interfere with and/or disrupt the Complainant's business. The Registrant's use of the Complainant's mark in the disputed domain name is intended to divert traffic from the Complainant. Furthermore, many Internet resources "continue to direct" Internet users to the disputed domain name.

The disclaimer on the Registrant's website indicates that, by then at least, the Registrant was aware of the Complainant's business and registered trade marks in Ireland and/or received queries from the public about the Complainant. As such, the Registrant is diverting business from, and harming, the Complainant's business.

The Registrant's price of USD 50,000 for the disputed domain name, and the lack of any counter-offer from the Registrant in response to the Complainant's counter-offer of USD 5,000, is evidence of the Registrant's intent to sell the disputed domain name to the Complainant for an excessive price.

The Registrant has set out to create a likelihood of confusion with the Complainant's mark, including by means of initial interest confusion.

The Registrant's use of the disputed domain name for a private members club, unrelated to the Complainant's business, damages and/or dilutes the reputation of the Complainant, which serves the broader consuming public.

B. Registrant

The following is a summary of the Registrant's contentions.

So far as the Registrant is aware, the Complainant was not operating or registered in the island of Ireland when the disputed domain name was registered in 2013, or for many years after this.

The Complainant says it only became aware of the disputed domain name in 2021, which coincides with the time when it was opening a new store in Dublin, and appears to have had no interest in the disputed domain name before then.

The classes of goods and services covered by the Complainant's registered trade marks are not relevant to the Registrant's services.

The Registrant has used the disputed domain name in connection with a *bona fide* offering of goods or services, or operation of a business.

As is obvious from the Registrant's website, Lulu's Lemons is a private members' club, which the Registrant has been operating legitimately and in good faith for over eight years. By ignoring this evidence, the Complainant has filed this proceeding in bad faith.

The Registrant takes privacy seriously and has no obligation to provide details about the organisation or its members. The fact that the website lacks elements identified by the Complainant serves as no indication about how the members interact or use the website. A failed email delivery notification is not an indication of bad faith. The email address is currently working correctly.

The Registrant is using the disputed domain name in accordance with the purpose explained to his domain name provider in 2013. It is clear from the website that, in accordance with the 2013 communication, "Lulu" is a personal name, *i.e.*, the name of a person after whom the club is named, and "lemon" relates to the

name of the club based on that person's tree and related activities.

The Registrant's website has always clearly explained its purpose and has never misled its visitors. The site states that it is not an apparel company in order to avoid any confusion with the Complainant. This is a legitimate use of the disputed domain name.

The Registrant has not made any commercial gain that in any way relates to the Complainant.

The Registrant has no need or obligation to register "Lulu's Lemons" or the disputed domain name as a trade mark or business name.

The Registrant has registered and used the disputed domain name in good faith.

There is no evidence to support the Complainant's claim that the Registrant was aware of the Complainant when registering the disputed domain name. The Registrant's website has nothing to do with, and the Registrant has no interest in, apparel and fashion.

The Registrant has met all the IEDR requirements for registering the disputed domain name, including provision of proof of domain use and purpose at the time of registration.

The Registrant is not using the disputed domain name to block the Complainant but purely as a landing page for the club. It is wrong for the Complainant to claim that there is no content on the Registrant's website.

The Registrant did not register or use the disputed domain name to create a likelihood of confusion with the Complainant's mark or to disrupt or interfere with its business.

The disputed domain name has never been used to represent the Complainant, which sells to Ireland online through a different domain name. The Registrant has not engaged in any advertising to draw users to the disputed domain name, and the only means of access is to type it into a browser. If users were seeking the Complainant, they would quickly realise they were in the wrong place, and this would be reinforced by the Registrant's website messaging and content.

The Registrant's website has never sold or advertised any goods or services and cannot therefore have diverted business from the Complainant.

The Registrant is not affiliated with the third parties mentioned on the landing page, Nike and Under Armour. Simply expressing an opinion or recommending a product does not constitute evidence of bad faith use. It was simply a coincidence that the Registrant added the disclaimer at the time of the contact by the Complainant's agent, which did not reveal that it was acting for the Complainant. The disclaimer was added in good faith to avoid confusion from Internet users who may have mistaken the Registrant's site for "an apparel brand" and also to minimise spam emails, but not to mislead Internet users.

There is no proof that resources are continuing to direct users to the disputed domain name, thereby adversely affecting the Complainant. Rather, it is the Registrant's members that would be affected if the disputed domain name was transferred to the Complainant.

The Registrant's initial response that the disputed domain name was not for sale proves that the Registrant did not register the disputed domain name to sell for profit. The Registrant has no history of registering domain names for this purpose.

The Complainant filed the Complaint in bad faith to gain control over the disputed domain name without paying a fair value. No contact to acquire the disputed domain name has ever been made by any organisation openly representing the Complainant. The anonymous approach was a "check the box" step designed to support the Complainant's case and mislead the Panel, and not to acquire the disputed domain name for a fair price. The Complainant provided a version of the communications which was partial, and

also misleading as it is not correct to say that the Registrant indicated a readiness to sell the disputed domain name for USD 3,000 to 5,000.

The Registrant's price of USD 50,000 was justified to the Complainant's agent and was not in excess of costs. The absence of further negotiation is not an example of bad faith.

There is no reason why use of a website for a private members club would damage the reputation of an unrelated enterprise. There was never any attempt to liken the appearance of the Registrant's website to that of the Complainant.

The various prior decisions cited by the Complainant are not based on facts comparable to those in this case.

The Registrant did not intentionally provide misleading or false information when applying to register the disputed domain name.

The Registrant's privacy was breached when details of the Complaint were copied to an email address provided by the Complainant but claimed (by the Registrant) to be unrelated to the Registrant.

The Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The Complainant makes some egregious statements which indicate a lack of diligence as the evidence to refute the claims can be found by visiting the website at the disputed domain name. The claim was submitted in the hope that the Registrant would not respond and with the intention to acquire the disputed domain name which was legitimately held by the Registrant.

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or misleading similar to a protected identifier in which the Complainant has rights;
- the Registrant has no rights in law or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered or is being used in bad faith.

A. Identical or Misleadingly Similar

Under paragraph 1.3.1 of the IEDR Policy, "protected identifiers" include "trade and service marks protected in the island of Ireland".

The Complainant owns a number of trade marks for LULULEMON that have effect within the island of Ireland and therefore constitute protected identifiers.

While the Registrant has questioned the extent of the Complainant's reputation in Ireland when the disputed domain name was registered, and has pointed out that the class of goods and services covered by the Complainant's mark are not relevant to the Registrant's services, such matters, if relevant, only arise in connection with the second and/or third element of the Policy. As explained in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"),¹ the first element functions primarily as a standing requirement and comprises a reasoned but relatively straightforward comparison between the complainant's trade mark and the disputed domain name.

¹ Although [WIPO Overview 3.0](#) is directed to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), given the similarity between the UDRP and the IEDR Policy, it is appropriate to have regard to these principles except to the extent that the IEDR Policy diverges from the UDRP.

Disregarding the country code Top-Level Domain “.IE”, which is excluded from the comparison, the disputed domain name is identical to the Complainant’s trade mark.

The Panel finds that the Complainant has established the first element of paragraph 1.1 of the IEDR Policy.

B. Rights in Law or Legitimate Interests

As explained in section 2.1 of [WIPO Overview 3.0](#), the consensus view is that, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

Here, the Complainant has not licensed or otherwise authorised the Registrant to use its trade mark.

Paragraph 3.1 of the IEDR Policy gives examples of circumstances which, if proved, suffice to demonstrate that a registrant possesses rights or legitimate interests in the disputed domain name.

As to paragraph 3.1.1 of the IEDR Policy, for reasons explained in detail in section 6.C. below, the Panel considers that the Registrant has not demonstrated that the disputed domain name has been used for a good faith offering of goods or services or operation of a business.

Paragraph 3.1.2 of the IEDR Policy does not apply. While the Registrant points out that “Lulu” is a personal name, the Registrant does not assert that it is his own personal name or pseudonym, which paragraph 3.1.2 requires.

Paragraph 3.1.3 of the IEDR Policy is not applicable because the disputed domain name is not identical or misleadingly similar to a geographical indication.

For the above reasons, the Panel concludes that the Complainant has established the second element of paragraph 1.1 of the IEDR Policy.

C. Registered or Used in Bad Faith

For the following reasons, the Panel does not find the Registrant’s claim that he registered and used the disputed domain name for an online “private members club” to be credible.

First, despite the Complainant having questioned whether the disputed domain name was really being used for the claimed private members club, the Registrant has provided no evidence demonstrating that the club exists. This situation is analogous to where a registrant invokes demonstrable preparations to use a domain name under the second element of the IEDR Policy. Generally, assertions do not suffice, and panels will require clear contemporaneous evidence – see section 2.2 of [WIPO Overview 3.0](#). If, as the Registrant asserted to the Complainant, the club has some 900 to 1,100 members and it holds what he described as the equivalent of an annual general meeting, there is surely a significant level of activity that could easily have been evidenced with a few dated documents. The Registrant’s alleged concerns about privacy could have been allayed by redacting any personal information.

Second, the Registrant has not explained the nature and purpose of the alleged club beyond claiming that the disputed domain name was being used in accordance with the explanation provided to his domain name provider in 2013. But that letter made no mention of a club and referred instead to a proposed “personal hobby blog”, which would be “semi-private” and invitation-only. Is the Registrant saying that this personal hobby blog has somehow evolved into a private members club of some 900 to 1,100 members, which holds meetings that are akin to annual general meetings? This seems unlikely but, in any case, there is no explanation, let alone supporting evidence, from the Registrant.

Nor does the Registrant's website provide any information about the nature of the alleged club, or even an obvious way of accessing the club. The Registrant points out that the fact that the website lacks such elements serves as no indication about how the members interact or use the website, but the Registrant has not seen fit to fill the gap by explaining how such alleged interaction and use does occur. (For completeness, the Panel would add that it has placed no weight on the fact that the email address shown on the website did not work when tried by the Complainant.)

While the Registrant is correct to say that he "has no obligation to provide details about the organisation or its members", his failure to do so when the existence his club has been called into question casts serious doubt over the credibility of his assertions.

Third, "Lulu's Lemons" does not seem a very likely name for a private members club. In any case, the Registrant has provided no evidence in support of the explanation given to his domain name provider in 2013 in connection with the original adoption of this name for the proposed personal hobby blog, for example to verify the existence of the alleged family friend called Lulu, or her alleged lemon tree or lemon-related products.

Fourth, even if the Registrant genuinely adopted "Lulu's Lemons" as the name of a blog/club, the Registrant has not explained why did not seek to register a domain name such as <luluslemons.ie>, as opposed to the disputed domain name <lululemon.ie>, which reflects a somewhat unnatural and ungrammatical variation of "Lulu's Lemons".

Accordingly, in view of the lack of credibility of the Registrant's explanation of his purpose in registering the disputed domain name as explained above, including the lack of supporting evidence, the Panel finds that, more likely than not, the Registrant registered the disputed domain name with the Complainant's name and mark in mind. It is true that, as the Registrant observes, there is no evidence from the Complainant about the extent of its activities or reputation in Ireland as of 2013, when the Complainant registered the disputed domain name. That might have posed a problem for the Complainant if its name has been less distinctive. But the term is so unusual that the Panel finds it impossible to conceive that the Registrant registered the disputed domain name independently of the Complainant's name/mark.

The Panel also considers it significant that, at around the time of the approach by the Complainant's agent to buy the disputed domain name, the Registrant added a notice to his website that included a recommendation of two of the Complainant's competitors. The Panel is not convinced that this timing was simply a coincidence, as the Registrant claims. The Registrant asserts that expressing an opinion or recommending a product does not constitute evidence of bad faith use. In principle, that may or may not be the case depending on the factual situation. But, here, given that the Registrant has not explained exactly why he saw fit to make those competitor recommendations, the Panel thinks it reasonable to infer that the Registrant was well aware that the Complainant was the agent's undisclosed client and that, rather than a good faith attempt to avoid confusion, the notice was more likely intended as some sort of warning designed to encourage the Complainant to make a significant offer for the disputed domain name.

For all of the above reasons, the Panel concludes that, on the balance of probabilities, the Registrant registered the disputed domain name in in bad faith, most likely with a view to selling it to the Complainant for valuable consideration in excess of registration expenses in the event that the Complainant expanded its operations into Ireland, and/or otherwise to block the Complainant and/or interfere or disrupt its business, in accordance with paragraphs 2.1.1, 2.1.2 and 2.1.3 of the IEDR Policy.

In the Panel's view, the following additional assertions by the Registrant do not assist the Registrant's case for the reasons stated:

1. That the Complainant appears to have had no interest in the disputed domain name before it became aware of the disputed domain name, coinciding with the time it opened its new store in Dublin in 2021. Generally, delay between registration of a disputed domain name and filing of complaint is not regarded as barring a complainant. See section 4.17 of [WIPO Overview 3.0](#).

2. That the classes of goods and services covered by the Complainant's registered trade marks are not relevant to the Registrant's services. This case is concerned with bad faith, principally the Registrant's motive when registering the disputed domain name, and not with trade mark infringement.

3. That the Registrant did not register or use the disputed domain name to create a likelihood of confusion with the Complainant's mark and the Registrant's website has never misled its visitors. It is unnecessary for the Panel to address this point, which arises under paragraph 2.1.4 of the IEDR Policy, given the Panel's finding that the Registrant registered the disputed domain name in bad faith under paragraphs 2.1.1, 2.1.2 and 2.1.3 of the IEDR Policy. The Panel would however add that, even if visitors seeking the Complainant quickly realise that they have arrived at the wrong website, as the Registrant asserts, the disputed domain name has nonetheless created confusion based on an implied affiliation with the Complainant, and paragraph 2.1.4 of the Policy is concerned with the intentional attracting of Internet users.

4. That the Registrant has not made any commercial gain that in any way relates to the Complainant. For the purposes of the Panel's above finding of registration in bad faith, it is sufficient that the Registrant was likely motivated to make a commercial gain from sale of the disputed domain name to the Complainant or to otherwise unfairly target the Complainant's mark.

5. That the Registrant had no need or obligation to register "Lulu's Lemons" or the disputed domain name as a trade mark or business name. The lack of any such registration has not been a factor in this decision.

6. That the Registrant's website has nothing to do with, and the Registrant has no interest in, apparel and fashion. Even if this is correct, for the reasons stated above the Panel believes that the Registrant was likely to have been aware of the Complainant's highly distinctive name/mark when registering the disputed domain name.

7. That the Registrant has met all the IEDR requirements for registering the disputed domain name, including provision of proof of domain use and purpose at the time of registration. Even if so, as explained above the Panel is not convinced by the reasons put forward by the Registrant for registration of the disputed domain name, either in 2013 or in the Response.

8. That the Registrant's members would be adversely affected if the disputed domain name were transferred to the Complainant. If there are such members, and if they are adversely affected by such an outcome, that would be the consequence of the Registrant being found to have selected the disputed domain name by reference to the name/mark of another entity, a finding partly based on the lack of evidence from the Registrant demonstrating that the club exists.

9. That the Registrant's initial response that the disputed domain name was not for sale proves that the Registrant did not register the disputed domain name to sell for profit. The summary of the relevant conversation on December 16, 2021, provided by the Complainant, and with which the Registrant has not specifically taken issue states: "Called Owner: Haven't listed it for sale. I don't have a price in mind. We use it as a private member's club. If you have any info about a price, please let me know. Do you have a timeline on this? We have the equivalent of our Annual General Meeting regarding the club. February. That's not a super big deal. If needed I can move forward sooner. We'd love to hear their offer first." While this account is somewhat terse, so far as the Panel can tell, the Registrant was simply indicating that the disputed domain name was not currently listed for sale, not that it was not available for sale at all. On the contrary, the Registrant appeared keen to receive an offer for the disputed domain name.

10. That the Complainant's anonymous approach to buy the disputed domain name was not a genuine attempt to buy the disputed domain name but was instead designed to support the Complainant's case and mislead the Panel. Such approaches are common and, whether or not the Complainant genuinely intended to buy the disputed domain name at that point (and it may well have wished to explore the possibility of acquiring the disputed domain name at a cheaper price than having to file a case under the IEDR Policy), the Panel does not consider that the approach by the Complainant's agent was somehow illegitimate or that the Complainant set out to mislead the Panel.

11. That the Complainant provided a partial, and misleading, version of the communications between the parties. It would have been better if the Complainant had provided the entire email string in addition to the notes of the phone calls but, so far as the Panel tell, the Complainant's summary of the emails is broadly accurate. The Panel does not consider that the statement by the Complainant that the Registrant said that he would be ready to sell the disputed domain name for a price in the region of USD 3,000 to 5,000 is disproved by the Complainant's note of the conversation of December 20, 2021, that "[o]wner did a little bit of research and is thinking \$3k-\$5k based on other .IE premium domains they see on GoDaddy". In the Panel's view, they are broadly the same thing, and in any case the Panel had the Complainant's conversation note available for reference.

12. That the Registrant's price of USD 50,000 was justified to the Complainant's agent and was not in excess of costs. The Panel does not consider that the Registrant justified that price to the Complainant's agent. The Registrant provided no breakdown, estimates, or evidence of the costs of the various factors cited by the Registrant in support of this price. In any event, those items all relate to the costs of alleged migration of the "club", the existence of which is very much in question.

13. That there is no reason why use of a website for a private members club would damage the reputation of an unrelated enterprise and that there was never any attempt to liken the appearance of the Registrant's website to that of the Complainant. The Panel has made no finding that the Registrant's website has damaged or diluted the Complainant's reputation or that it in any way mimicked the Complainant's website.

14. That the Registrant's privacy was breached when details of the Complaint were copied to an email address provided by the Complainant but claimed (by the Registrant) to be unrelated to the Registrant. While it is noted that once the matter was raised by the Registrant, communications were only directed to his self-confirmed email addresses, such matters are outside the scope of this proceeding.

For the above reasons, the Panel concludes that the Complainant has established the third element of paragraph 1.1 of the IEDR Policy.

7. Decision

For all the foregoing reasons, in accordance with paragraphs 5 of the IEDR Policy and 14 of the Rules, the Panel orders that the disputed domain name <lululemon.ie> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Dated: July 28, 2022